

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A" , HYDERABAD**

**BEFORE**

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER  
AND  
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

ITA No.614/Hyd/2024		
Assessment Year: 2016-17		
Srinivas Manda, H.No.16-12-180, Industrial Estate, Warangal, Telangana – 506002.  PAN : AUEPM3638E.	Vs.	The Assistant Commissioner of Income Tax, Central Circle 2(4), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P. Vinod, Advocate.	
Revenue by:	Shri Sadanala Srinath, Sr.AR.	
Date of hearing:	02.09.2024	
Date of pronouncement:	03.09.2024	

**ORDER**

**PER LALIET KUMAR, J.M.**

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals) – 12 dated 29.04.2024 for the AY 2016-17 on the following grounds :

*“1. On the facts and circumstances of the case, the order of the Ld.CIT(A) is erroneous both on facts and in law.*

*2. The Ld.CIT(A) erred in sustaining the addition made by the Assessing Officer of Rs.19,00,000/- as unexplained credit u/s 68 of the I.T. Act.*

*3.The Ld.CIT(A) failed to appreciate the documentary evidence filled from Mr.Ghousuddin and M/s. R.B. Enterprises in respect of the deposits made into the appellant’s account in proper perspective and thereby erred in confirming the addition.”*

2. The additional grounds raised by the assessee read as under :

*“1. On the facts and circumstances, the Assessing Officer erred in assuming jurisdiction to make assessment without recording satisfaction as required under section 153C of the Act with respect to the seized material, and so also the ld.CIT(A) erred in not considering the above requirement of law.*

*2. Without prejudice to the above ground, the addition made by the Assessing Officer under section 153C of the Act is not based on any seized material and therefore, is not sustainable. The ld.CIT(A) erred in not considering the above requirement of law and the judgment of Hon'ble Supreme Court on this aspect of the matter.”*

3. Facts of the case, in brief, are that assessee has filed his return of income on 08-11-2016 admitting a total income of Rs.2,90,500/-. Information was received from Police Authorities, Sironcha Police Station, District Gadchiroli that cash of Rs.1,20,00,000/- was found in the possession of Sri Sanjay Gangaram Awathare along with his driver on 02-06-2020 and he was not having any supporting documents to establish the source of the cash. Sri Sanjay Awathare stated that he was working for

Mr.Mohd Bashu Miya, who was Tendu Patta contractor. He further stated that the cash being carried in the vehicle belongs to Mr.Mohd.Bashu Miya for making payment to Tendu Patta gatherers in the contract area of Bhamragarh, Gadchiroli for various Gram Sabhas and their villages. Based on the information, Sri Sanjay Awathare could not furnish evidence in support of the sources of the cash found. Hence, a warrant of authorization u/s.132A was executed on Sri Bashu Miya Mohd and Sri Sanjay Awathare on 26-06-2020. .

3.1. Subsequently, a notice U/s.153C was issued to the assessee on 08-12-2021 and in response to the same, the assessee filed a return of income on 11-01-2022 admitting a total income of Rs.2,90,500/. Subsequently, notice u/s.143(2) dated 21-02-2022 was issued to the assessee. In response to the notice u/s.143(2) and subsequent statutory notices, the assessee uploaded the information on various dates. During the course of assessment proceedings, a notice u/s.142(1) was issued the assessee for which assessee replied that the credit of Rs.6 lakhs was received from one Mr.Gousuddin as on 10-06-2015 as a loan repayment for the amount given on 24-08-2013 and credit of Rs.13 lakhs was received from RB Enterprises as on 10-06-2015 for making labour payment on behalf of RB Enterprises and the relevant expenditure has been booked in the financial statements of RB Enterprises. However, the assessee has not furnished any documentary evidence in support of his contention. In the absence of any explanation or information with regard to total credits of Rs.19,00,000/-, the same was treated as unexplained and assessed u/s.68 of the Act and therefore, taxed under the provisions of Sec. 115BBE of the Act.

4. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Ld. CIT(A), who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. The ld.AR submitted that the Ld.CIT(A) has erred in confirming addition made by the Assessing Officer, towards cash found in possession of the assessee amounting to Rs.19,00,000/- even though, the assessee stated before the police authorities and even before the investing officer that the said cash belongs to Mr. Mohd Bashu Miya, a Tendu merchant. The counsel for the assessee further submitted that the Assessing Officer had made addition on protective basis. However, the Ld.CIT(A) confirmed the addition on substantive basis even though the entire amount of Rs.1,20,00,000/- cash found in possession of Sanjay Gangaram Awathare was added in the hands of Mr. Mohd Bashu Miya. Therefore, he submitted that addition made by the Assessing Officer should be deleted.

7. On the other hand, ld.DR supporting the orders of Ld.CIT(A) submitted that the assessee could not establish the source of cash found in his possession amounting to Rs.19,00,000/- and thus,

the Ld.CIT(A) has rightly sustained additions on substantive basis and therefore, the order of Ld.CIT(A) should be upheld.

8. Heard both the parties, perused the materials available on record and gone through the orders of authorities below. The Assessing Officer made addition on protective basis for Rs.19,00,000/- after considering the relevant explanation given by the assessee during the course of investigation that the said cash belonged to Mr. Mohd Bashu Miya, a tendu merchant, because, substantive addition has been made in the hands of Mr. Mohd Bashu Miya in his assessment. We further find that on identical facts, this Tribunal had remanded the matter to the file of Id.CIT(A). Further, the said decision is not stayed or over-ruled by any of the higher Judicial Forums. Hence, we respectfully following the decision of the co-ordinate Bench of the Tribunal passed in ITA No.495/Hyd/2024 dt.25.07.2024, allow this appeal for statistical purposes with same directions. Thus, the appeal of the assessee is allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 3<sup>rd</sup> September, 2024.

<b>Sd/-</b> <b>(G. MANJUNATHA)</b> <b>ACCOUNTANT MEMBER</b>	<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>
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Order pronounced in the Open Court on 3<sup>rd</sup> September, 2024.

Copy to:

S.No	Addresses
1	Srinivas Manda, H.No.16-12-180, Industrial Estate, Warangal, Telangana – 506002.
2	The Assistant Commissioner of Income Tax, Central Circle 2(4), Hyderabad.
3	Pr.CIT (Central), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*